

SELF-ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

INSTRUCTIONS:

1. This questionnaire seeks to obtain information on the degree to which countries and territories have implemented measures relating to the FATF Special Recommendations on terrorist financing. The FATF Secretariat will compile responses to this questionnaire, and in the future this material will serve as the basis for assessing further progress in implementing anti-terrorist financing measures. This questionnaire takes into account the guidance¹ issued by the UN Security Council Committee established for monitoring the implementation of UN Security Council Resolution 1373 (2001) of 28 September 2001 [S/RES/1373(2001)]. Where appropriate, questions in this document contain cross-references to the relevant provisions set out in the UN guidance and S/RES/1373(2001).
2. Your responses to this questionnaire should reflect the current situation in your jurisdiction and not any future or desired situation or a situation based on preconditions that have not yet been met. Each series of questions on a particular Recommendation has clearly marked field with space for describing future situations or policy intentions if necessary. Please use this field to indicate your jurisdiction's Action Plan to come into compliance with the particular Special Recommendation by June 2002. For many of the questions, we ask that you indicate the exact title (by article, paragraph, section, etc.) of the law, regulation, executive degrees or other sources for a particular requirement. In addition to these citations, you should provide copies (separately) of the relevant texts.
3. We request that you complete the questionnaire and forward your responses directly to the FATF Secretariat at Secretariat@fatf-gafi.org on or before **4 January 2002**.

Specific instructions for completing and submitting this form electronically

4. This questionnaire is designed to be submitted electronically. Each 'blank' or 'field' in the form has been indicated by grey shading. You may move from one question to the next either by using your tab key (to move forward), the arrow keys (to move forward or backward), or your cursor (mouse).
5. For questions which call for a 'yes' or 'no' answer, the default is 'no'. In order to provide your answer to this type of question, use your cursor to select the corresponding blank. A small menu will appear giving you your choices. If you feel that this type of question does not apply to your jurisdiction, answer 'no' and explain in the space provided on the form.
6. For other questions that ask for longer responses, again select the corresponding blank and then type in the desired response to that question. The blank will increase in size according to how much information you enter. If you need additional space for explaining your answers, you may submit this information with clear reference to the corresponding question as a separate attachment to your completed questionnaire.
7. We have designed this form to be submitted electronically to facilitate the compilation and analysis of the submitted material. Should you have problems in downloading, filling in or submitting this questionnaire, please contact the FATF Secretariat at the e-mail address indicated above.

FATF Secretariat
14 December 2001

¹ Guidance for the Submission of Reports Pursuant to Paragraph 6 of Security Council Resolution 1373 (2001) of 28 September 2001 [S/RES/1373(2001)], issued 26 October 2001 (<http://www.un.org/docs/sc/committees/1373/guide.htm>).

**SELF-ASSESSMENT QUESTIONNAIRE
FOR THE FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING**

Responses for:

Name of jurisdiction: United States of America ¹

Date of information: January 4, 2002 ²

I. Ratification and implementation of UN instruments

Each country should take immediate steps to ratify and to implement fully the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.

Countries should also immediately implement the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, particularly United Nations Security Council Resolution 1373.

I.1 Has your jurisdiction ratified and fully implemented the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism? Please answer 'yes', 'no' or 'partially', indicate the appropriate date and cite the applicable law or executive act.

		<i>Date</i>	<i>Applicable law(s) or executive act(s)²</i>
Signed	Y ³	January 10, 2000 ⁴	⁵
Ratification	Y ⁶	December 5, 2001 ⁷	The U.S. Senate gave its advice and consent to the ratification of to the Convention on December 5, 2001. (See Congressional Record of that date at page S12461.) The U.S. will not deposit its instrument of ratification with the Secretary General of the United Nations until the implementing legislation is enacted. Ratification is expected in early 2002. [The U.S. answer to this question is "partially." However, the form offers only Y and N as possible answers.] ⁸
Implementation	Y ⁹	Expected to be completed in early 2002. ¹⁰	Most terms of the Convention have already been implemented under existing U.S. law. See answer to question II.4 for legislative cites. Proposed legislation to implement remaining provisions of the Convention is under consideration in the U.S. Congress. The bill to implement the Terrorist Bombings and Financing Conventions has passed the House of Representatives (HR 3275), and is awaiting Senate approval. [The U.S. answer to this question is "partially." However, the form offers only Y and N as possible answers.] ¹¹

[References for I.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3d, S/RES/1373 (2001)]

I.2 What is your process for ratifying this Convention? Please specify in the space below.

The Convention is a treaty for the United States. Following signature it must be transmitted by the President to the Senate for advice and consent to ratification and approved by a two thirds majority of the Senate. In addition, the necessary implementing legislation must be in place to comply with the provisions of the Convention. The Convention has been signed and the Senate has given its advice and consent to ratification. The remaining legislation needed to enable the U.S. to complete the ratification process is pending before the Congress and is expected to be enacted in early 2002. When the President has signed the instrument of ratification and the legislation is enacted, the U.S. expects to deposit its instrument of ratification with the Secretary General of the U.N. ¹²

I.3 Has your jurisdiction fully implemented the following United Nations Security Council Resolutions relating to the prevention and suppression of the financing of terrorist acts?³

² Here as elsewhere in this questionnaire, please cite the specific provision (article, paragraph, section, etc.) that applies.

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

a. **S/RES/1267(1999)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate whether or not your jurisdiction has frozen the assets of individuals and entities mentioned in the list associated with this Security Council Resolution, and specify the number of individuals or entities whose assets have been frozen under this Resolution.)

Implemented?	Date	Applicable law(s) or executive act(s)	Have you frozen assets related to S/RES/1267(1999)?	Number of individuals or entities whose assets have been frozen
Y ¹³	July 4, 1999; Sept. 23, 2001 ¹⁴	Executive Order 13129 (implementing regulations 31 CFR Part 545); Executive Order 13224. ¹⁵	Y ¹⁶	Five individuals and entities have been designated pursuant to U.S. law freezing the assets of the Taliban. As of January 4, 2002, US\$262.7 million have been frozen. Executive Order 13129 defines the Taliban in broad terms, including Taliban leaders as well as agencies and instrumentalities of the Taliban. The U.S. is exploring whether to take additional actions to further implement UNSCR 1267. ¹⁷

[References for 1.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]

b. **S/RES/1269(1999)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate to which international anti-terrorism conventions your jurisdiction is a party and specify for each whether the instrument has been signed but not yet ratified ('S'), ratified but not yet implemented ('RA') or implemented ('IM').)

Implemented?	Date	Applicable law(s) or executive act(s)	International anti-terrorism conventions and status
Y ¹⁸	19	49 USC 46501 & 46506 49 USC 46501-46502 18 USC 31-32; 49 USC 46501 18 USC 112, 878, 1116 & 1201(e) 18 USC 1203 18 USC 831 18 USC 37	The U.S. is party to ten of the twelve relevant international conventions and protocols relating to terrorism. Legislation has been enacted to fully implement the following conventions and protocols: Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963) - IM Convention for the Suppression of the Unlawful Seizure of Aircraft (1970) - IM Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971) - IM Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973) - IM International Convention Against the Taking of Hostages (1979) - IM Convention on the Physical Protection of Nuclear Material (1980) - IM Protocol for the Suppression of Unlawful Acts of

³ Please note that in assessing compliance with this Special Recommendation, responses to questions elsewhere in this questionnaire will be taken into account.

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>International anti-terrorism conventions and status</i>
		18 USC 2280	Violence at Airports Serving International Civil Aviation (1988), Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation - IM
		18 USC 2281	Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988) - IM
		18 USC 841(o)-(p), 842(l)-(o), 844(a)(1) & 845(c); 19 USC 1595(a); 18 USC 842(m)-(o) ²⁰	Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988) - IM
			Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991) - IM
			The U.S. has signed and expects to ratify the two most recent conventions (International Convention for the Suppression of Terrorist Bombings and International Convention for the Suppression of the Financing of Terrorism) in the near future. Implementing legislation for both has been submitted to the Congress.
			The U.S. has implemented Resolution 1269 by working to become a party to all twelve of the conventions and protocols relating to terrorism, by fully implementing those agreements to which it is a party, and by establishing and implementing the measures discussed elsewhere in this submission.
			Note that Resolution 1269 is of a different character than Resolutions 1267, 1333, and 1373, as all latter resolutions were adopted by the Security Council under Chapter VII. ²¹

[References for 1.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]

c. **S/RES/1333(2000)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate whether or not your jurisdiction has frozen the assets of individuals and entities mentioned in the list associated with this Security Council Resolution, and specify the number of individuals or entities whose assets have been frozen under this Resolution.)

<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>Have you frozen assets related to S/RES/1333(2000)?</i>	<i>Number of individuals or entities whose assets have been frozen</i>
Y ²²	July 4, 1999; Sept. 23, 2001; Jan. 23, 1995; Aug. 20, 1998; April 24, 1996. ²³	Executive Order 13129 (implementing regulations 31 CFR Part 545); Executive Order 13224; Executive Order 12947; Executive Order 13099; AEDPA. ²⁴	Y ²⁵	UNSCR 1333 calls, in part, for the freezing of funds and other financial assets of Usama bin Ladin and individuals and entities associated with him as designated by the UN Security Council Committee, and the Al Qaida organization. The U.S. has three counterterrorism programs that freeze the assets of numerous terrorist individuals and entities, including bin Ladin, Al Qaida, and/or associated individuals and entities meeting stated legal

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>Have you frozen assets related to S/RES/1333(2000)?</i>	<i>Number of individuals or entities whose assets have been frozen standards.</i>
				<p>As of January 4, 2002, the total of assets frozen attributable to bin Laden, his Al Qaida organization, and other bin Laden-related entities totaled \$1.1 million.</p> <p>As of January 4, 2002, the U.S. has designated 124 individuals and entities in connection with bin Laden, his Al Qaida organization, and other bin Laden-related entities in full compliance with UNSCR 1333.</p>

[References for 1.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]

d. **S/RES/1373(2001)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate whether or not your jurisdiction has (1) frozen all terrorist assets, including of those individuals assisting terrorists, or (2) improved the mechanism of information exchange.)

<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>Have you frozen assets related to S/RES/1373(2001)?</i>	<i>Improved mechanism for information exchange?</i>
Y ²⁷	Jan. 24, 1995 and Aug. 21, 1998; Aug. 22, 1996; Oct. 8, 1997; July 7, 1999; and Sept. 23, 2001; Oct. 26, 2001. ²⁸	<p>Executive Orders 12947 and 13099 (implementing regulations 31 CFR Part 595); Antiterrorism and Effective Death Penalty Act of 1996, section 321 (implementing regulations 31 CFR Part 596) Antiterrorism and Effective Death Penalty Act of 1996, sections 302 and 303 (implementing regulations 31 CFR Part 597); Executive Order 13129 (implementing regulations 31 CFR Part 545); Executive Order 13224; USA PATRIOT Act of 2001, Public Law 107-56.</p> <p>The U.S. has three counterterrorism programs that freeze the assets of numerous terrorist entities and individuals. The total of assets frozen under these three programs is \$7.5 million as of January 4, 2002.</p> <p>As of January 4, 2002, the U.S. has designated 185 individuals and entities for the freezing of assets under EOs 12947, 13099, 13224, and the Anti-Terrorism Act section 302. This includes the 124 individuals and entities designated as a result of UNSCR 1333.</p>	Y ³⁰	Y ³¹

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

[References for 1.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]

I.3 Does your jurisdiction have the authority to freeze the assets of terrorists whose names do not appear on the list maintained by the UN Security Council Committee established pursuant to S/RES/1269(1999)? If 'yes', please cite the applicable law(s), regulation(s) or other authority that permits such action.

Applicable law(s), regulation(s) or other authority

Y 32 [There seems to be a typographical error in this question. We assume that the question is referring to Resolution 1267, rather than Resolution 1269.]
International Emergency Economic Powers Act: implementing Executive Orders and regulations including EOs 12947 and 13099 (regulations 31 CFR Part 595), EO 13129 (regulations 31 CFR Part 545), and EO 13224; Antiterrorism and Effective Death Penalty Act sections 302 and 303, amending section 219 of the INA, and implementing regulations 31 CFR Part 597. 33

I.4 Does the law of your jurisdiction require a UN Security Council designation before a terrorist's assets can be frozen? If 'yes', please indicate how your country plans to implement the requirements of S/RES/1373(2001).

Plans for implementing S/RES/1373(2001)

N 34 35

I.5 FUTURE ACTION or FURTHER EXPLANATION: If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

The U.S. remains an enthusiastic sponsor and supporter of the UN International Convention for the Suppression of the Financing of Terrorism. Many of the provisions of that Convention have long been implemented by existing U.S. law. On December 5, 2001, the U.S. Senate gave its advice and consent to ratification of the Terrorist Financing Convention. The U.S. Congress is simultaneously considering proposed legislation that would implement those few provisions of the Terrorist Financing Convention that have not already been implemented under existing U.S. law. The U.S. expects to deposit its instrument of ratification of the Terrorist Financing Convention as soon as the President signs the U.S. instrument of ratification and the necessary implementing legislation has been enacted.

Regarding S/RES/1373 (2001), it appears that there was an inadvertent omission from the questionnaire in that there is no question asking for information on the number of individuals/entities whose assets have been frozen consistent with this Resolution, although similar information was requested in relation to the other applicable resolutions. The U.S. is providing this information and we hope others will as well. We also hope that the Secretariat will revise the questionnaire to remedy this omission. 36

II. Criminalising the financing of terrorism and associated money laundering

Each country should criminalise the financing of terrorism, terrorist acts and terrorist organisations. Countries should ensure that such offences are designated as money laundering predicate offences.

II.1 Has your jurisdiction criminalised the financing of terrorism, the financing of terrorist acts and the financing of terrorist organisations? Please answer 'yes' or 'no' and cite the applicable law(s).

Applicable law(s)

Y 37 See 18 United States Code ?2339A (Providing Material Support to Terrorists) (1994) and 18 United States Code ? 2339B (Providing Material Support or Resources to Designated Foreign Terrorist Organizations) (1996). See also the International Emergency Economic Powers Act (50 U.S.C. ?1701, et. seq.) and EO 13224. 38

[References for II.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 1b, S/RES/1373 (2001)]

II.2 Are the offences in II.1 above designated as money laundering predicate offences? Please answer 'yes' or 'no' and cite the applicable law(s).

Applicable law(s)

Y 39 See 18 United States Code ?1956(c)(7)(D) makes 18 United States Code ?2339A a money laundering predicate (1996) and Section 805(b) of the USA PATRIOT Act, Pub. L. 107-56, amends 18 United States Code ?1956(c)(7)(D) to make 18 United States Code ?2339B a money laundering predicate (2001). See also the International Emergency Economic Powers Act (50 U.S.C. ?1701, et. seq.) and EO 13224. 40

II.3 Do terrorist financing offences in your jurisdiction also apply when terrorists or terrorist organisations are located in another State, or when a terrorist act takes place in another State? Please answer 'yes' or 'no' and cite the applicable law(s).

Applicable law(s)

Y 41 See 18 United States Code **2339A (Providing Material Support to Terrorists) (1994)** and **18 United States Code 2339B (Providing Material Support or Resources to Designated Foreign Terrorist Organizations) (1996)**. 18 U.S.C. 2 makes those who aid, abet, counsel, command, induce or procure the commission of a crime, or who (directly or indirectly) cause an offense to occur, culpable as a principal for that crime. This is true of acts committed in other states where the offense establishes extraterritorial jurisdiction. In addition, 18 U.S.C. 3238 provides a proper venue for the trial of extraterritorial offenses not committed within any judicial district in the United States. 42

[References for II.3: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1): paragraph 2d, S/RES/1373 (2001)]

II.4 Is it an offence to plan, facilitate or commit terrorist acts whether or not these acts take place in your jurisdiction or in another State? Please answer 'yes' or 'no' and cite the applicable law(s).

Applicable law(s)

a. acts in your jurisdiction

Y 43

What follows are the key statutes which enable the United States to investigate and prosecute terrorist activities that occur within, as well as in whole or part, outside the territory of the United States. The statutes describe various Federal criminal offenses (including conspiracy, 18 U.S.C. **2381, 1117**) that overseas terrorists may commit. They include the following sections of 18 U.S.C. and related statutes as indicated:

32 (relating to destruction of aircraft or aircraft facilities),
 37 (relating to violence at international airports),
 81 (relating to arson within special maritime and territorial jurisdiction),
 175 or 175b (relating to biological weapons), 229 (relating to chemical weapons),
 351(a), (b), (c), or (d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping),
 831 (relating to nuclear materials),
 842(m) or (n) (relating to plastic explosives),
 844(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death),
 844(i) (relating to arson and bombing of property used in interstate commerce),
 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon),
 956(a)(1) (relating to conspiracy to murder, kidnap, or maim persons abroad),
 1030(a)(1) (relating to protection of computers),
 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers),
 1114 (relating to killing or attempted killing of officers and employees of the United States),
 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons),
 1203 (relating to hostage taking),
 1362 (relating to destruction of communication lines, stations, or systems),
 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States),
 1366(a) (relating to destruction of an energy facility),
 1751(a), (b), (c), or (d) (relating to Presidential and Presidential staff assassination and kidnaping),
 1992 (relating to wrecking trains),
 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),
 2155 (relating to destruction of national defense materials, premises, or utilities).

Applicable law(s)

b. acts in another State

Y 45

2280 (relating to violence against maritime navigation),
 2281 (relating to violence against maritime fixed platforms),
 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States),
 2332a (relating to use of weapons of mass destruction),
 2332b (relating to acts of terrorism transcending national boundaries),
 2339 (relating to harboring terrorists),
 2339A (relating to providing material support to terrorists),
 2339B (relating to providing material support to terrorist organizations),
 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. **??284**);
 46502 (relating to aircraft piracy),
 the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon),
 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft),
 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft),
 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49. ⁴⁴

Section 18 U.S.C. **? 2 makes those who aid, abet, counsel, command, induce or procure the commission of a crime, or (directly or indirectly) cause an offense to occur, culpable as a principal for that crime. This is also true of acts committed in other states where the offense establishes extraterritorial jurisdiction. What follows are the key statutes which enable the United States to investigate and prosecute terrorist activities that occur within, as well as in whole or part, outside the territory of the United States. The statutes describe various Federal criminal offenses (including conspiracy, 18 U.S.C. **?? 371, 1117**) that overseas terrorists may commit. They include the following sections of 18 U.S.C. and related statutes as indicated:**

32 (relating to destruction of aircraft or aircraft facilities),
 37 (relating to violence at international airports),
 81 (relating to arson within special maritime and territorial jurisdiction),
 175 or 175b (relating to biological weapons),
 229 (relating to chemical weapons),
 351(a), (b), (c), or (d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping),
 831 (relating to nuclear materials),
 842(m) or (n) (relating to plastic explosives),
 844(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death),
 844(i) (relating to arson and bombing of property used in interstate commerce),
 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon),
 956(a)(1) (relating to conspiracy to murder, kidnap, or maim persons abroad),
 1030(a)(1) (relating to protection of computers),
 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers),
 1114 (relating to killing or attempted killing of officers and employees of the United States),
 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons),
 1203 (relating to hostage taking),
 1362 (relating to destruction of communication lines, stations, or

Applicable law(s)

systems),
 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States),
 1366(a) (relating to destruction of an energy facility),
 1751(a), (b), (c), or (d) (relating to Presidential and Presidential staff assassination and kidnaping),
 1992 (relating to wrecking trains),
 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),
 2155 (relating to destruction of national defense materials, premises, or utilities),
 2280 (relating to violence against maritime navigation),
 2281 (relating to violence against maritime fixed platforms),
 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States),
 2332a (relating to use of weapons of mass destruction),
 2332b (relating to acts of terrorism transcending national boundaries),
 2339 (relating to harboring terrorists),
 2339A (relating to providing material support to terrorists),
 2339B (relating to providing material support to terrorist organizations),
 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284);
 46502 (relating to aircraft piracy),
 the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon),
 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft),
 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft),
 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49. ⁴⁶

[References for II.4: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2e, S/RES/1373 (2001)]

II.5 What penalties apply to persons or entities that have committed terrorist financing offences or that have been involved in, planned, prepared, supported, or committed terrorist acts? Please describe indicate the penalties and cite the applicable law(s).

	<i>Penalties</i>	<i>Applicable law(s)</i>
a. terrorist financing offences	The penalty for criminal violations of 18 U.S.C. 2339A and 2339B are fines and/or imprisonment for a period of up to 15 years for each violation, and if death of any person results, for any term of years or for life. ⁴⁷	See 18 U.S.C. 2339A(a) and 2339B(a)(1). ⁴⁸
b. terrorist acts (as above)	The penalties for violating the crimes listed in II.4(a) and (b) include criminal fines and/or incarceration for a period from 5 years to life imprisonment. A few of the provisions authorize the imposition of the death penalty. ⁴⁹	See statutes listed in II.4(a) and (b), above. ⁵⁰

[References for II.5: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2e, S/RES/1373 (2001)]

II.6 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

51

[END A] ⁵² [For Secretariat use only]

III. Freezing and confiscating terrorist assets

Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.

Each country should also adopt and implement measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations.

III.1 Does your jurisdiction have explicit (legal or regulatory) provisions or 'executive powers'⁴ which permit competent authorities to freeze funds or other assets of terrorists and terrorist organisations, as well as those who finance terrorist acts or terrorist organisations? If 'yes', please indicate how quickly you may act, any special circumstances or restrictions (for example, automatic termination of the order), and cite the applicable law or regulation.

		<i>How quickly?</i>	<i>Circumstances or restrictions</i>	<i>Applicable law or regulation</i>
a. terrorists and terrorist organisations?	Y ⁵³	Immediately, once designation is made. ⁵⁴	<p>Executive Powers: The assets of a foreign terrorist organization designated as such by the Secretary of State are subject to immediate blocking by any domestic financial institution that becomes aware that it has possession of or control over any funds in which such an organization or its agent(s) has an interest. Such institutions must immediately report to the Treasury the blocking of any such funds. Failure to comply can result in injunctive action and/or the imposition of fines in the amount of \$50,000 or twice the amount required to be blocked, whichever is greater.</p> <p>Pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701, et. seq.), the President of the United States has authorized the blocking of the assets of persons or entities designated as terrorists.</p> <p>Legal Provisions: U.S. money laundering laws make terrorist financing, both foreign and domestic, predicate offenses. Property involved in such offenses, including proceeds and instrumentalities are civilly or criminally forfeitable pursuant to 18 U.S.C. 1956(a)(1)(A), (B), (C), and (G) and 1956(c)(7), 981(a)(1)(A), (B), (C), and (G) and 982.</p>	<p>18 U.S.C. 2339B(a)(2); 50 U.S.C. 1701, et. seq.</p> <p>50 U.S.C. § 1701, et seq. (E.O. 12947, 13099, 13224 currently provide authority to identify and block the assets of persons or entities designated as terrorists.)</p>
b. those who finance terrorist acts or terrorist organisations?	Y ⁵⁷	Immediately, once designation is made. ⁵⁸	<p>Executive Powers: Pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701, et. seq.), the</p>	<p>18 U.S.C. 1956(c)(7), 981(a)(1)(A), (B), (C), and (G) and 982.</p> <p>56</p> <p>50 U.S.C. § 1701, et seq. (E.O.s 12947 and 13224 currently provide authority to</p>

⁴ The term 'executive powers' means those powers emanating from the executive branch of government (as opposed to legislative or judicial powers). An example might be an order or decree that may be made by the head of state or government.

<i>How quickly?</i>	<i>Circumstances or restrictions</i>	<i>Applicable law or regulation</i>
	President of the United States has authorized the blocking of the assets of persons or entities financing terrorism. Legal Provisions: U.S. money laundering laws make acts of terrorism, both foreign and domestic, predicate offenses. Property involved in such offenses, including proceeds and instrumentalities are civilly or criminally forfeitable pursuant to 18 U.S.C. 981(a)(1)(A), (B), (C), and (G) and 982 . Property may be seized at the initiation of a civil forfeiture case or can be seized or restrained at the discretion of the court as part of a criminal prosecution.	designate and block assets of persons or entities financing acts of terrorism or terrorists.) 18 U.S.C. 1956(c)(7) , 981(a)(1)(A), (B), (C), and (G) and 982. 60

[References for III.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 1c, S/RES/1373 (2001)]

III.2. Does your jurisdiction have explicit (legal or regulatory) provisions or 'executive powers' which permit competent authorities to seize ...

		<i>Applicable law or regulation</i>
a. the proceeds of terrorism or of terrorist acts?	Y 61	18 U.S.C. 981(a)(1)(A), (B), (C), and (G) and 982; 50 U.S.C. 1702 et. seq. 62
b. the property used in terrorism, in terrorist acts or by terrorist organisations?	Y 63	18 U.S.C. 981(a)(1)(A), (B), (C), and (G) and 982; 50 U.S.C. 1702 et. seq. 64
c. property intended or allocated for use in terrorism, in terrorist acts or by terrorist organisations?	Y 65	18 U.S.C. 981(a)(1)(A), (B), (C), and (G) and 982; 50 U.S.C. 1702 et. seq. 66

III.3. Does your jurisdiction have explicit (legal or regulatory) provisions or 'executive powers' which permit competent authorities to confiscate ...

		<i>Applicable law or regulation</i>
a. the proceeds of terrorism or of terrorist acts?	Y 67	18 U.S.C. 981(a)(1)(A), (B), (C), and (G) and 982; 50 U.S.C. 1702(a)(1)(C) 68
b. the property used in terrorism, in terrorist acts or by terrorist organisations?	Y 69	18 U.S.C. 981(a)(1)(A), (B), (C), and (G) and 982; 50 U.S.C. 1702(a)(1)(C) 70
c. property intended or allocated for use in terrorism, in terrorist acts or by terrorist organisations?	Y 71	18 U.S.C. 981(a)(1)(A), (B), (C), and (G) and 982; 50 U.S.C. 1702(a)(1)(C) 72

III.4 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

73

IV. Reporting suspicious transactions related to terrorism

If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

IV.1 Are financial institutions⁵ or other businesses and entities in your jurisdiction required to make a report to the competent authorities when they suspect that funds may be linked to, related to or to be used for terrorism, terrorist acts or by terrorist organisations?⁶

<i>Type of institution</i>		<i>Applicable law or regulation</i>	
a. Banks	Y 74	31 CFR 103.18 and 12 CFR 21.11 - Suspicious Activity Report; 12 CFR 208. 75	
b. Bureaux de change	N 76	77	
c. Stockbrokers	N 78	See IV.3 below in some cases, stockbrokers are now required to report suspicious activities. By July 2002, all stockbrokers will be required to file suspicious activity reports. 79	
d. Insurance companies	N 80	81	
e. Money remittance/transfer services	Y 82	31 CFR 103.20 - Suspicious Activity Report 83	
Other businesses or entities (<i>please specify</i>)			
f. 84	N 85	86	
g. 87	N 88	89	

IV.2 Does the reporting obligation mentioned in IV.1 above also apply when the financial institution or other business or entity has reasonable grounds to suspect that funds are linked to, related to or to be used for terrorism, terrorist acts or by terrorist organisations?

<i>Type of institution</i>		<i>Applicable law or regulation</i>	
a. Banks	Y 90	31 CFR 103.18 and 12 CFR 21.11 - Suspicious Activity Report; 12 CFR 208. 91	
b. Bureaux de change	N 92	93	
c. Stockbrokers	N 94	See IV.3 below in some cases, stockbrokers are now required to report suspicious activities. By July 2002, all stockbrokers will be required to file suspicious activity reports. 95	
d. Insurance companies	N 96	97	
e. Money remittance/transfer companies	Y 98	31 CFR 103.20 - Suspicious Activity Report 99	
Other businesses or entities (<i>please specify</i>)			
f. 100	N 101	102	
g. 103	N 104	105	

IV.3 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

As explained in the U.S. response to Recommendation 8 of the last FATF Annual Self Assessment Exercise, certain securities broker-dealers have been subject to suspicious transaction reporting since 1996 under the rules of the federal bank supervisory agencies. These broker-dealers represent approximately half of all the business done by U.S. broker-dealers although they are a small percentage of the approximately 8,300 broker-dealers in the United States. In addition, in section 356 of the recently enacted USA Patriot Act, Congress directed Treasury to issue, by January 1, 2002, proposed rules that would extend suspicious transaction reporting to all broker-dealers without regard to whether they are currently subject to the rules of the federal bank supervisory agencies. On December 31, 2001, FinCEN issued proposed rules that would extend suspicious transaction reporting to all broker-dealers. The final rule will be issued by July 2002. 106

[END B] 107 [For Secretariat use only]

V. International Co-operation

Each country should afford another country, on the basis of a treaty, arrangement or other mechanism for

⁵ All references to "financial institutions" in this questionnaire, unless otherwise indicated, refer to both banks and non-bank financial institutions (NBFIs). For assessing compliance with FATF Recommendations, NBFIs include as a minimum the following types of financial services: bureaux de change, stockbrokers, insurance companies and money remittance/transfer services.

⁶ This question refers to systems that require the reporting of suspicious transactions as well as those requiring the reporting of unusual transactions.

with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organisations.

Countries should also take all possible measures to ensure that they do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations, and should have procedures in place to extradite, where possible, such individuals.

V.1 Does your jurisdiction have specific provisions that permit competent authorities to provide mutual legal assistance⁷ to other countries in connection with investigations, inquiries and proceedings relating to the financing of terrorism, of terrorist acts and of terrorist organisations?

<i>Type of investigation, inquiry or proceeding</i>		<i>Applicable treaty, arrangement or other mechanism</i>
a. criminal	Y ¹⁰⁸	The United States has in force over 45 Mutual Legal Assistance Treaties (MLATs), with more still in negotiation or awaiting Senate approval. They provide for a wide range of assistance in the investigation, prosecution, and suppression of criminal offenses, including those related to terrorism or the financing of terrorism. By way of example, such treaties typically facilitate U.S. assistance to foreign investigators and prosecutors with financial records, witness statements and testimony, and assistance in freezing and forfeiting criminally derived assets. Moreover, even in the absence of a treaty relationship, the United States may, under appropriate circumstances, provide a host of evidential assistance to foreign countries pursuant to our domestic law. The United States acts on hundreds of foreign requests for assistance in criminal matters every year. ¹⁰⁹
b. civil enforcement	Y ¹¹⁰	Authority in this area includes the US Securities and Exchange Commission, which has the authority to provide assistance for civil enforcement investigations and proceedings that relate to securities violations, as described under V.3 below. ¹¹¹

[References for V.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraphs 2f and 3e, S/RES/1373 (2001)]

V.2 Is your jurisdiction able to respond to mutual legal assistance requests relating to the financing of terrorism, of terrorist acts and of terrorist organisations? Please choose 'yes' or 'no'. If 'yes', please provide the number of mutual legal assistance requests (relating to the financing of terrorism, of terrorist acts and of terrorist organisations) received by your jurisdiction during the past twelve months, the number answered, and the average time to respond.

	<i>N° of MLA requests received</i>	<i>N° MLA requests answered</i>	<i>Average response time</i>
Y ¹¹²	In the period from October 2000 to the present, the United States has received approximately 9 requests for assistance in cases related to terrorist offenses. One of these requests was fully executed, and, due to their complexity, eight remain in various stages of completion. These figures do not include ongoing cooperative efforts related to the continuing investigation of the events of Sept. 11, 2001. ¹¹³	One of these requests was fully executed, and, due to their complexity, eight remain in various stages of completion. ¹¹⁴	One to six months ¹¹⁵

V.3 Does your jurisdiction permit the exchange of information (other than through mutual legal assistance) with other countries in connection with investigations, inquiries and proceedings relating to the financing of terrorism, of terrorist acts and of terrorist organisations?

Type of investigation, inquiry or proceeding

Applicable law, arrangement or other mechanism

⁷ "Mutual legal assistance" as used here means the power to provide a full range of both non-coercive and coercive mutual legal assistance, including the taking of evidence, the production of documents for investigation or as evidence, the search and seizure of documents or things relevant to criminal proceedings or to a criminal investigation, the ability to enforce a foreign restraint, seizure, forfeiture or confiscation order in a criminal matter.

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

<i>Type of investigation, inquiry or proceeding</i>		<i>Applicable law, arrangement or other mechanism</i>
a. criminal	Y ¹¹⁶	Information exchange is provided through FinCEN and through law enforcement channels. ¹¹⁷
b. civil enforcement	Y ¹¹⁸	The US Securities and Exchange Commission can provide a wide range of assistance to foreign authorities in the investigation and prosecution of offenses that relate to potential securities violations, including matters related to the financing of terrorism. Pursuant to its statutory authority, the SEC can provide foreign regulators, investigators and prosecutors with a range of information, including financial records, witness statements and testimony. Specifically, the SEC may compel this information on behalf of foreign securities regulators (15 USC 78(u)(a)(2)) and for other entities, the SEC may provide them relevant information held in the SEC's files (15 USC 78x(c)). This assistance does not depend on a formal arrangement. ¹¹⁹
c. administrative ⁸	Y ¹²⁰	12 USC 1818(v) ¹²¹

[References for V.3: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraphs 2b, 2f and 3b, S/RES/1373 (2001)]

V.4 If 'yes' to V.3 above, please indicate the number of requests received by your jurisdiction during the past twelve months, the number answered, and the average time to respond.

	<i>N° of requests received</i>	<i>N° requests answered</i>	<i>Average response time</i>
Y ¹²²	Statistics are not maintained on the number of informal law enforcement information exchange requests received or answered. 15 requests received by FinCEN 5 requests received by the SEC 1 request received by the Commodity Futures Trading Commission (CFTC) Approximately 60 requests received by the U.S. Department of the Treasury/OASIA ¹²³	Not available for informal law enforcement information exchanges. 8 requests answered by FinCEN; the others are in the process of being answered. 5 requests answered by the SEC 1 request answered by the CFTC Over 50 requests answered; the remaining requests are in various stages of completion. ¹²⁴	Very fast usually within days or weeks for informal law enforcement exchanges. Two to three months. Promptly. Promptly. Very promptly - usually within one week. ¹²⁵

V.5 Does your jurisdiction have specific measures in place that permit competent authorities to deny 'safe haven' (i.e., access to your jurisdiction or permission to reside there) for those individuals involved in the financing of terrorism, of terrorist acts or of terrorist organisations?

	<i>Measure(s)</i>	<i>Applicable law or regulation</i>
Y ¹²⁶	The U.S. has an extensive network of bilateral extradition treaties that in most cases would permit extradition of the perpetrators of the crimes listed from the U.S. See further response to question V.7. ¹²⁷	¹²⁸

[References for V.5: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2c, S/RES/1373 (2001)]

V.6 As a means of denying 'safe haven' to persons charged with the financing of terrorism, of terrorist acts or of terrorist organisations, does your jurisdiction have specific measures in place, such as...

	<i>Measure(s)</i>	<i>Applicable law or regulation</i>
a. border controls to prevent the movement of terrorists or terrorist organisations?	Y ¹²⁹ Border controls ¹³⁰	8 USC 1182(a)(3)(B), among others. ¹³¹

⁸ This category refers to inquiries made on behalf of financial regulatory bodies or certain types of financial intelligence units (FIUs) and which do not fall into the two other categories indicated.

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

		<i>Measure(s)</i>	<i>Applicable law or regulation</i>	
b.	controls to prevent issue of identity papers and travel documents to terrorists?	Y ¹³²	Restricted issuance of travel documents and identity papers ¹³³	8 USC 1182(a)(3)(B), 22 USC 212, and 22 CFR 51.70 and 51.72, among others. ¹³⁴
c.	measures to prevent forgery or fraudulent use of identity papers and travel documents by terrorists or terrorist organisations?	Y ¹³⁵	Measures to protect integrity of identity papers and travel documents and prevent their fraudulent use ¹³⁶	18 USC 1541-1546; 18 USC 1028; 18 USC 1001; among others ¹³⁷
d.	any other measures?	Y ¹³⁸	The U.S. has an extensive network of complementary statutes, regulations, and administrative practices aimed at maintaining the integrity of passports, visas, and other travel documents, and preventing the entry of terrorists and terrorist organizations into the U.S. These measures involve multiple agencies of the U.S. government and are too numerous to list in their entirety. In addition, the U.S. has cooperative agreements with other governments and with international organizations that seek to achieve the same goals. ¹³⁹	8 USC passim.; 22 U.S.C. 211(1) et seq, among others. ¹⁴⁰

[References for V.6: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2 g. S/RES/1373 (2001)]

V.7 Does your jurisdiction have procedures in place to permit the extradition of individuals involved in the financing of terrorism, of terrorist acts or of terrorist organisations? If 'yes', please also indicate any prohibitions or restrictions in this regard.

	<i>Prohibition or restriction</i>	<i>Applicable law or regulation</i>
Y ¹⁴¹	¹⁴²	The U.S. currently has bilateral extradition treaties in force with over 100 countries. Extradition treaties negotiated after 1972 generally rely on the dual criminality principle rather than a list of crimes covered, thus permitting extradition for the offenses described when, in general, the act in question is a serious crime in both countries. ¹⁴³

V.8 Does your jurisdiction have (legislative or regulatory) provisions or other procedures to ensure that claims of political motivation are not recognised as a ground for refusing requests to extradite persons alleged to have been involved in terrorist financing or terrorist acts? Please answer 'yes' or 'no', describe the measures and cite the applicable law or regulation.

	<i>Measures</i>	<i>Applicable law, regulation or other procedure</i>
Y ¹⁴⁴	U.S. extradition law and treaties do foresee the possibility of refusing extradition for "political offenses;" however, U.S. jurisprudence has provided that terrorist acts or the financing thereof (meaning, generally, acts of violence against civilians or nonmilitary targets), do not fall within the political offense exception. Moreover, many modern U.S. extradition treaties exempt from the definition of a political offense all offenses as to which a multilateral convention to which the countries are party contains an obligation to extradite or prosecute; this could include the existing UN conventions in the terrorism field. ¹⁴⁵	¹⁴⁶

[References for V.8: Paragraph 3.2, "Guidance on Submission of Reports" (see note 1); paragraph 3g. S/RES/1373 (2001)]

V.9 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

¹⁴⁷

VI.1 Does your jurisdiction have specific provisions (legal or regulatory) that require persons or legal entities providing money remittance or transfer services⁹ to be licensed or registered? Do these requirements **also** apply to informal money or value transfer systems or networks¹⁰? Please select 'yes' or 'no' and cite the applicable law(s) or regulation(s).

	<i>Must be licensed?</i>	<i>Must be registered?</i>	<i>Applicable law(s) or regulation(s)</i>
a. Money remittance or transfer service	N ¹⁴⁸	Y ¹⁴⁹	31 U.S.C. 5330 and 31 CFR 103.41 150
b. <u>Including</u> informal money/value transfer systems?	N ¹⁵¹	Y ¹⁵²	31 U.S.C. 5330 and 31 CFR 103.41 153

VI.2 Are money remittance/transfer services, including informal money or value transfer systems, in your jurisdiction subject to key FATF Recommendations applicable to banks and non-bank financial institutions (R. 10, 11, 12 and 15)? Please select 'yes' or 'no' for each Recommendation and cite the applicable law or regulation.

<i>FATF Recommendation¹¹</i>	<i>Applies to money remitters?</i>	<i>Applicable law or regulation</i>	<i>Informal money / value transfer systems are also included?</i>
R. 10 (identification of the customer and recording of this information)	Y ¹⁵⁴	Under the Bank Secrecy Act regulations, all financial institutions, including non-bank financial institutions, are required to verify and record the identity of their customers that conduct large currency transactions. See 31 CFR 103.28 and 103.29 . Money remittance/transfer businesses must also verify and record the identity of customers for funds transfers of \$3,000 or more. ¹⁵⁵	Y ¹⁵⁶
R. 11 (identification of the true identity of the person on whose behalf a transaction is conducted)	Y ¹⁵⁷	Both the suspicious transaction reporting rules and the statute that makes money laundering a crime (18 U.S.C. 1956) generate an implicit duty, in order to avoid liability, to inquire about the identity of the person on whose behalf an	Y ¹⁵⁹

⁹ The term 'money remittance or transfer service' refers to those non-bank financial institutions that move funds for individuals or entities through their own network or through the regulated banking network. For the purposes of assessing compliance with the FATF Recommendations, money remitter/transfer services are included as one of the four principal NBF categories and are thus considered to be part of the 'regulated' financial sector. Nevertheless, such services are used in some laundering or terrorist financing operations, often as part of a larger alternate remittance or underground banking scheme.

¹⁰ The term 'informal money or value transfer system' also refers to systems or networks whereby funds or value are moved from one geographic location to another; however, in some jurisdictions, these informal systems have traditionally operated outside the regulated financial sector (in contrast to money remittance or transfer services). To obtain a clear picture of the situation in each jurisdiction, an artificial distinction has been made for some questions between the informal and formal transfers systems. Some examples of informal systems include the parallel banking system found in the Americas (often referred to as 'Black Market Peso Exchange'), the *hawala* or *hundi* system of South Asia, and the Chinese or East Asian systems. For more information on this topic, see the FATF-XI Typologies Report (3 February 2000) or the Asia Pacific Group Report on Underground Banking and Alternate Remittance Systems (18 October 2001).

¹¹ The full text of these and the other FATF Recommendations may be consulted through the FATF website at: www.fatf-gafi.org/40Recs_en.htm.

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

<i>FATF Recommendation¹¹</i>	<i>Applies to money remitters?</i>	<i>Applicable law or regulation</i>	<i>Informal money / value transfer systems are also included?</i>
		account is opened or a transaction is conducted. Moreover, the large currency transaction reporting rule (31 CFR 103.22), the rules requiring the cross-border transportation of currency or monetary instruments (31 CFR 103.23), and the funds transfer recordkeeping rules (31 CFR 103.33(f) and (g)) explicitly require non-bank financial institutions to obtain and record information on whose behalf a transaction is conducted. ¹⁵⁸	
R. 12 (maintenance for at least five years of records on transactions)	Y ¹⁶⁰	31 CFR 103. 38(d) ¹⁶¹	Y ¹⁶²
R. 15 (requirement to report to competent authorities when it is suspected that funds involved stem from criminal activity)	Y ¹⁶³	31 CFR 103. 20 ¹⁶⁴	Y ¹⁶⁵

VI.3 Has your jurisdiction designated specific competent authorities to oversee the licensing or registration of money transmission services, including informal money or value transfer systems, and is there an authority for ensuring that these services comply with the relevant FATF Recommendations? Please answer 'yes' or 'no' and indicate the name of the competent authority or authorities.

	<i>Name of authority</i>
N ¹⁶⁶ <i>Licensing authority</i>	¹⁶⁷
Y ¹⁶⁸ <i>Registration authority</i>	U.S. Treasury Department/FinCEN ¹⁶⁹
Y ¹⁷⁰ <i>Authority ensuring compliance with relevant FATF Recommendations</i>	U.S. Treasury Department/FinCEN and IRS ¹⁷¹

VI.4 Are persons or entities in your jurisdiction that conduct money transmission services, including informal money/value transfer systems, without proper authorisation or that fail to comply with key FATF Recommendations (R. 10, 11, 12 and 15) subject to administrative, civil or criminal sanctions? Please select 'yes' or 'no' for each category, indicate the type(s) of sanction, and cite the applicable law or regulation.

	<i>Sanction?</i>	<i>Nature of sanction(s)</i>	<i>Applicable law or regulation</i>
a. <i>Failure to obtain a licence</i>	N ¹⁷²	¹⁷³	¹⁷⁴
b. <i>Failure to register</i>	Y ¹⁷⁵	Civil penalty of \$5,000 for each day business required to register under 31 U.S.C. 5330 fails to do so. In addition, criminal penalty of up to five years. ¹⁷⁶	31 U.S.C. 5330(e); 18 U.S.C. 1960 ¹⁷⁷
c. <i>Failure to comply with the principles contained in FATF Recommendations.</i>	Y ¹⁷⁸	Civil penalty for willfully violating the Bank Secrecy Act or its regulations of not more than the greater of the amount (not to exceed \$100,00) involved in the transaction (if any) or \$25,000, or both. In addition, criminal penalty of not more than \$250,000 or not more than five years or both (in case of pattern of willful criminal violations, not more than \$500,000 and not more than ten years or both). ¹⁷⁹	31 U.S.C. 5321; 31 U.S.C. 5322 ¹⁸⁰

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

VI.5 FUTURE ACTION or FURTHER EXPLANATION: If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

While licensing is not required at the federal level, it may be required under state law. 181

[END C] 182 [For Secretariat use only]

payment chain.

Countries should take measures to ensure that financial institutions, including money remitters, conduct

VII.1 Are financial institutions in your jurisdiction required by law or regulation to include information on the originator (name, address, account number¹²) of funds transfers (either accompanying the transfer itself or contained in related messages) sent within or from your jurisdiction? Please indicate 'yes' or 'no' for each category and cite the applicable law or regulation.

<i>Type of institution</i>			<i>Applicable law or regulation</i>
a.	Banks	Y 183	31 CFR 103.33 - Records to be made and retained by financial institutions 184
b.	Bureaux de change	NA 185	186
c.	Money remittance/transfer services	Y 187	31 CFR 103.33(f) and (g) 188
	Other financial institutions ¹³ (please specify)		
d.	189	N 190	191
e.	192	N 193	194

VII.2 Are financial institutions in your jurisdiction required by law or regulation to retain information on the originator of funds transfers (either accompanying the transfer itself or contained in related messages) as it passes through the payment chain? Please indicate 'yes' or 'no' for each category and cite the applicable law or regulation.

<i>Type of institution</i>			<i>Applicable law or regulation</i>
a.	Banks	Y 195	31 CFR 103.33 - Records to be made and retained by financial institutions 196
b.	Bureaux de change	NA 197	198
c.	Money remittance/transfer services	Y 199	31 CFR 103.33(f) 200
	Other financial institutions (please specify)		
d.	201	N 202	203
e.	204	N 205	206

VII.3 Are financial institutions required by law or regulation to conduct enhanced scrutiny of funds transfers or monitor these transactions for suspicious activity when incomplete information on the originator is available? Please select 'yes' or 'no' for each of the categories, describe the measure(s) and cite the applicable law or regulation.

<i>Type of institution</i>		<i>Measure(s)</i>	<i>Applicable law or regulation</i>
a.	Banks	Y 207	31 CFR 103.18 12 CFR 208.62 209
			Banks are required to have systems in place to identify suspicious activity involving all types of transactions, including wire transfers. Repetitive wire transfers with incomplete, meaningless, or no originator

¹² When the funds are being transferred from an account.

¹³ Such as stockbrokers, insurance companies, etc.

Type of institution		Measure(s)	Applicable law or regulation
		identification information could be an indication of suspicious activity. 208	
b. Bureaux de change	NA 210	211	212
c. Money remittance/transfer services	Y 213	Money transmitters are required to have systems in place to identify suspicious activity involving all types of transactions, including wire transfers. Repetitive wire transfers with incomplete, meaningless, or no originator identification information could be an indication of suspicious activity. 214	31 CFR 103.18 215
Other financial institutions (please specify)			
d. 216	N 217	218	219
e. 220	N 221	222	223

VII.4 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

224

VIII. Non-profit organisations¹⁴

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (i) by terrorist organisations posing as legitimate entities;
- (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

VIII.1 Does your jurisdiction require legal entities (juridical persons) or other relevant entities used for commercial or non-commercial purposes (other than financial institutions) to obtain a license and/or to register with competent government authorities? Please choose 'yes' or 'no' for each type of entity, indicating whether such entities exist in your jurisdiction, whether these entities must be licensed and/or registered, the licensing and/or registering authority, and then cite the applicable law or regulation.

Type of entity	Exist?	License	Register	Competent authority	Applicable law or regulation
a. Public limited companies ¹⁵	N 225	N 226	N 227	Not applicable Public limited companies do not exist in the U.S. 228	229
b. Private limited companies ¹⁶	Y 230	Y 231	Y 232	State and Federal 233	Federal - 26 USC 6109 234
c. Offshore companies ¹⁷	N 235	N 236	N 237	Not applicable offshore	239

¹⁴ It should be noted that important work on the misuse of corporate vehicles is being carried out through the ongoing review of the FATF Forty Recommendations.

¹⁵ This category **does not include** companies that are listed on a stock exchange or bourse.

¹⁶ Some examples of 'private limited companies' include *société par actions à responsabilité limitée (SARL)*, *Gesellschaft mit beschränkter Haftung (GmbH)*, *Limited Liability Corporation (LLC)*, etc.

¹⁷ This category includes limited liability entities that may be incorporated in certain jurisdictions but which do not fall under a separate or privileged regulatory regime. Such entities may be used to own and operate businesses, issue shares or bonds, or raise capital in other manners. They are generally exempt from local taxes and may be prohibited from doing business in the jurisdiction in which they are incorporate. The *International Business Corporation (IBC)* is an example of such an entity.

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

Type of entity	Exist?	License	Register	Competent authority	Applicable law or regulation
				companies do not exist in the U.S. ²³⁸	
d. Trusts and/or foundations ¹⁸	Y ²⁴⁰	N ²⁴¹	Y ²⁴²	Federal ²⁴³	26 USC 6109 ²⁴⁴
e. Non-profit organisations	Y ²⁴⁵	N ²⁴⁶	Y ²⁴⁷	Federal ²⁴⁸	26 USC 6109 ²⁴⁹
Other (please specify)					
f. ²⁵⁰	N ²⁵¹	N ²⁵²	N ²⁵³	²⁵⁴	²⁵⁵

VIII.2 Do the competent authorities (administrative and/or judicial) in your jurisdiction have access to information relating to the licensing or registration of the entities indicated in VIII.1 above and under what conditions? Please select 'yes' or 'no' for each category.

Type of entity	Administrative authorities	Judicial authorities	Further explanation of conditions
a. Public limited companies	N ²⁵⁶	N ²⁵⁷	N/A ²⁵⁸
b. Private limited companies	Y ²⁵⁹	Y ²⁶⁰	The U.S. civil and criminal tax authority has access to these records. Law enforcement has access to such records as well in some circumstances. Other law enforcement and regulatory agencies can subpoena records from entities. ²⁶¹
c. Offshore companies	N ²⁶²	N ²⁶³	N/A ²⁶⁴
d. Trusts and/or foundations	Y ²⁶⁵	Y ²⁶⁶	See above ²⁶⁷
e. Non-profit organisations	Y ²⁶⁸	Y ²⁶⁹	See above ²⁷⁰
Other (please specify)			
f. ²⁷¹	N ²⁷²	N ²⁷³	²⁷⁴

VIII.3. Are there any further requirements or restrictions imposed on legal or other types of entities operating in your jurisdiction, such as...

a. to maintain records?

Type of entity		Nature of requirement	Applicable law or regulation
(1) Public limited companies	N ²⁷⁵	N/A ²⁷⁶	²⁷⁷
(2) Private limited companies	Y ²⁷⁸	All entities are required to maintain any and all records for federal tax administrative purposes. These records are subject to subpoena by any law enforcement agency. ²⁷⁹	26 USC 6001 ²⁸⁰
(3) Offshore companies	N ²⁸¹	N/A ²⁸²	²⁸³
(4) Trusts or foundations	Y ²⁸⁴	See above ²⁸⁵	See above ²⁸⁶
(5) Non-profit organisations	Y ²⁸⁷	See above ²⁸⁸	See above ²⁸⁹
Other (please specify)			
(6) ²⁹⁰	N ²⁹¹	²⁹²	²⁹³

b. to publish annual (financial) reports, or to file periodic declarations/reports to competent authorities (for example, to maintain tax exempt status if applicable)?

Type of entity		Nature of requirement	Applicable law or regulation
(1) Public limited companies (not listed)	N ²⁹⁴	N/A ²⁹⁵	²⁹⁶
(2) Private limited companies	Y ²⁹⁷	Required to file annual tax returns. States that incorporate such entities require the filing of annual reports, as well. ²⁹⁸	26 USC 6012(a)(2) Various states' laws ²⁹⁹
(3) Offshore companies	N ³⁰⁰	N/A ³⁰¹	³⁰²
(4) Trusts and/or foundations	Y ³⁰³	Required to file annual tax returns. ³⁰⁴	26 USC 6012(a)(4), 6033, 6034 and 6047 ³⁰⁵

¹⁸ This category primarily concerns 'private foundations or establishments' that exist in some civil law jurisdictions and which may engage in commercial or non-profit activities. Some examples of these entities include *Stiftung, stichting, Anstalt*, etc.

SELF ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

<i>Type of entity</i>		<i>Nature of requirement</i>	<i>Applicable law or regulation</i>
(5) Non-profit organisations	Y 306	Required to file annual tax returns and to make them available to the public. 307	26 USC 6033; 26 USC 6104(b) 308
<i>Other (please specify)</i>			
(6) 309	N 310	311	312

c. not engaging in certain types of (political advocacy, for profit, etc.) activities?

<i>Type of entity</i>		<i>Nature of restriction</i>	<i>Applicable law or regulation</i>
(1) Public limited companies	N 313	N/A 314	315
(2) Private limited companies	N 316	317	318
(3) Offshore companies	N 319	N/A 320	321
(4) Trusts and/or foundations	N 322	323	324
(5) Non-profit organisations	Y 325	Each organization must engage in activities that further its charitable, educational, religious, or scientific purposes. Further, they cannot intervene in political campaigns on behalf of, or against a candidate, they cannot engage in substantial lobbying, nor can they have a substantial non-exempt purpose. 326	327
<i>Other (please specify)</i>			
(6) 328	N 329	330	331

VIII.4 In your jurisdiction, are there obstacles for competent authorities in identifying the beneficial owner(s) and directors/ officers of a company or organisation, or the beneficiaries of legal entities? Please choose 'yes' or 'no' for each category. If 'yes', please indicate the nature of the obstacle(s).

<i>Type of entity</i>	<i>Beneficial owner(s)</i>	<i>Company directors/ officers</i>	<i>Beneficiaries (of legal entities)</i>	<i>Nature of the obstacle(s)</i>
a. Public limited companies (not listed)	N 332	N 333	Not Applicable	334
b. Private limited companies	N 335	N 336	Not Applicable	337
c. Offshore companies	N 338	N 339	N 340	N/A 341
d. Trusts and/or foundations	N 342	N 343	N 344	None 345
e. Non-profit organisations	N 346	N 347	N 348	None 349
<i>Other (please specify)</i>				
f. 350	N 351	N 352	N 353	354

VIII.5 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of questions VIII.1 to VIII.3 or 'yes' to any categories of question VIII.4, please specify in the space below the measures you intend to take by June 2002 to ensure that entities in your jurisdiction cannot be misused for the financing of terrorism. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

355

[END D] 356 [For Secretariat use only]